



BILLING CODE 4810-02

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Renewal without Change of Information Collection Requirements in connection with the Imposition of a Special Measure Concerning North Korea as a Jurisdiction of Primary Money Laundering Concern.

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of a continuing effort to reduce paperwork and respondent burden, the Financial Crimes Enforcement Network (“FinCEN”) invites comment on a renewal, without change, to information collection requirements finalized on November 9, 2016, imposing a special measure with respect to North Korea as a jurisdiction of primary money laundering concern. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2019-0003 and the specific Office of Management and Budget (“OMB”) control number 1506-0071.

• Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2019-0003 and OMB control number 1506-0071.

Please submit comments by one method only. Comments will also be incorporated to FinCEN's retrospective regulatory review process, as mandated by E.O. 12866 and 13563. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: FinCEN Resource Center at 1-800-767-2825 or 1-703-905-3591 (not a toll free number) and select option 3 for regulatory questions. E-mail inquiries can be sent to FRC@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Background

a. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the USA PATRIOT Act). Title III of the USA PATRIOT Act amended the anti-money laundering (AML) provisions of the Bank Secrecy Act (BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of

the Treasury (the Secretary) to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.¹

Section 311 of the USA PATRIOT Act (Section 311), codified at 31 U.S.C. 5318A, grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transactions, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies to take certain “special measures” to address the primary money laundering concern.

FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to impose prohibitions or conditions on the opening or maintenance of certain correspondent accounts.

b. Overview of the Current Regulatory Provisions Regarding Special Measures Concerning North Korea.

FinCEN issued the final rule imposing the fifth special measure to prohibit U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, North Korean banking institutions². The rule further prohibits U.S. financial institutions from processing transactions for the correspondent account of a foreign bank in the United States if such a transaction involves a North Korean financial institution,

¹ Therefore, references to the authority of the Secretary of the Treasury under Section 311 of the USA PATRIOT Act apply equally to the Director of FinCEN.

² See 81 FR 78715, RIN 1506-AB35, November 9, 2016.

and requires institutions to apply special due diligence to guard against such use by North Korean financial institutions. See 31 CFR 1010.659.

Information Collection Under the Fifth Special Measure

The notification requirement in section 1010.659(b)(3)(i)(A) is intended to aid cooperation from correspondent account holders in denying North Korea access to the U.S. financial system. The information required to be maintained by section 1010.659(b)(4)(i) will be used by federal agencies and certain self-regulatory organizations to verify compliance by covered financial institutions with the provisions of 31 CFR 1010.659.

II. Paperwork Reduction Act (PRA)

Title: Renewal of Information Collection Requirements in connection with the Imposition of a Special Measure concerning North Korea as a Jurisdiction of Primary Money Laundering Concern.

Office of Management and Budget (OMB) Control Number: 1506-0071.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the imposition of a special measure against North Korea as a jurisdiction of primary money laundering concern pursuant to the authority contained in 31 U.S.C. 5318A. See 31 CFR 1010.659.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Businesses and certain not-for-profit institutions.

Frequency: One time notification. See 31 CFR 1010.659(b)(3)(i)(A) and 1010.659(b)(4)(i).

Estimated Number of Respondents: 23,615.³

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 23,615 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

When the final rule was published in November 2016, the number of financial institutions affected by the rule was estimated at 5,000. FinCEN has since revised the estimated number of affected financial institutions upward to account for all domestic financial institutions that could potentially maintain correspondent accounts for foreign

³ The above Estimated Number of Respondents is based on sum of the following numbers:

- 5,358 banks [Federal Deposit Insurance Corporation, *Key Statistics* webpage, April 25, 2019];
- 5,375 federally-insured credit unions [National Credit Union Administration, *Quarterly Credit Union Data Summary*, December 31, 2018];
- 125 privately-insured credit unions [General Accountability Office, *PRIVATE DEPOSIT INSURANCE: Credit Unions Largely Complied with Disclosure Rules, but Rules Should Be Clarified*, March 2017];
- 1,130 introducing brokers [National Futures Association website, March 31, 2019];
- 64 futures commission merchants [National Futures Association website, March 31, 2019];
- 3,607 securities firms [Financial Industry Regulatory Authority website, December 31, 2018]; and,
- 7,956 U.S. mutual funds [Investment Company Institute, *2018 Factbook*, 2018].

banks, and to ensure that all U.S. financial institutions are conducting their due diligence and not processing transactions that may involve DPRK financial institutions.

There are approximately 23,615 such financial institutions doing business in the United States. As noted, this revision should not have a significant impact on a substantial number of small entities. In addition, all U.S. persons, including U.S. financial institutions, currently exercise some degree of due diligence in order to comply with existing U.S. sanctions programs applicable to North Korea.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Authority: Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A).

Jamal El-Hindi,

Deputy Director,

Financial Crimes Enforcement Network.

[FR Doc. 2019-19486 Filed: 9/9/2019 8:45 am; Publication Date: 9/10/2019]